

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No.: 1:19-cv-1179-CCE-JLW**

**CENTER FOR BIOLOGICAL
DIVERSITY and SIERRA CLUB,**

Plaintiffs,

vs.

**UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL,**

Defendant.

**UNIVERSITY OF NORTH
CAROLINA AT CHAPEL HILL’S
MOTION FOR SUMMARY
JUDGMENT AND REQUEST FOR
HEARING**

The University of North Carolina at Chapel Hill (“UNC”) hereby moves the Court for summary judgment with respect to each of the claims in Plaintiffs’ Second Amended Complaint pursuant to Federal Rule of Civil Procedure 56 on the grounds that discovery is complete and there is no genuine issue of material fact. Plaintiffs bring all of their claims pursuant to the Federal Clean Air Act, 42 U.S.C. §7401, *et seq.* (the “Act”). The material facts show, as a matter of law, that Plaintiffs lack standing to bring any of the claims in the Second Amended Complaint. Further, even if Plaintiffs did not lack standing, Plaintiffs could not establish, as a matter of law, that UNC is liable for any of the claims in Plaintiffs’ Second Amended Complaint.

In support of this Motion, UNC shows the Court its Memorandum of Law in Support of Motion for Summary Judgment, which UNC is filing herewith. The

Memorandum of Law includes as Exhibits certain discovery materials from this Action, the declaration of Lewis Kellogg, and declaration of Steve Hall, Chief of the Technical Services Section of the Division of Air Quality of the North Carolina Department of Natural Resources.

Further, pursuant to L.R. 7.3(c), UNC requests that Court conduct a hearing to allow oral argument upon this motion, and any dispositive motion filed by Plaintiff. Given the complexity of the Clean Air Act issues involved in this Action, including the issue of standing, UNC believes such a hearing will allow for a full consideration of claims and advance the interests of justice.

For the reasons stated above and in the Memorandum of Law, UNC requests the Court enter judgment dismissing Plaintiffs' claims with prejudice, tax the costs of this Action against Plaintiffs, and award UNC such other relief as is just and proper.

This the 14th day of April, 2021.

/s/ Peter J. McGrath, Jr.

Peter J. McGrath, Jr.

N.C. State Bar No. 13606

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*The University of North Carolina at Chapel
Hill*

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notices of such filings to registered users.

/s/ Peter J. McGrath, Jr.

Peter J. McGrath, Jr.